

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

)
GREATER ST. LOUIS CONSTRUCTION)
LABORERS WELFARE FUND, et al.,)
)
Plaintiffs,)
)
v.) Case No. 4:06CV27
)
AGR CONSTRUCTION COMPANY, et al.,)
)
Defendants.)

ORDER

This matter is before the Court on Plaintiff's Renewed Motion for Summary Judgment, [Doc. 39]. Defendants oppose the motion, and have cited the deposition testimony of Bryan Fennell, an officer of Defendants, in support of their position that Ryan Rader and Robert Thomas¹ did not work in the geographic region controlled by Plaintiffs' Collective Bargaining Agreement. For the reasons set forth below, the Motion is denied.

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, summary judgment may be granted only if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that

¹ On page 6 of its August 23, 2007 Order, the Court mistakenly referred to Mr. Thomas as Mr. Thompson. The Court apologizes for this inadvertent reference.

there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

The court has reviewed the record before it. In this case, Plaintiffs are alleging that Defendants have failed to pay benefits into the fund for Messrs. Rader and Thomas.² The parties have presented conflicting testimony, through deposition testimony or affidavits, which give rise to genuine issues of material fact such that summary judgment is not appropriate at this time.

Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Renewed Motion for Summary Judgment, [Doc. No. 39], is denied.

Dated this 11th day of October, 2007.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE

² Summary Judgment has previously been entered in favor of Plaintiffs as to other employees of Defendants. Defendants did not dispute that such payments were required. See Opinion, Memorandum and Order dated August 23, 2007.